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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,044	05/04/2001	Dusan Pavcnik	PA-5252-RFB	9073

7590 09/19/2008
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EXAMINER

STEWART, ALVIN J

ART UNIT	PAPER NUMBER
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3774

MAIL DATE	DELIVERY MODE
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09/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/849,044	Applicant(s) PAVCNIK ET AL.	
	Examiner Alvin J. Stewart	Art Unit 3774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9 and 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1, 3-9 and 12-19 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-9 and 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gianturco US Patent 5,282,824 in view of WO 98/25544.

Gianturco discloses a prosthetic device (10) comprising a proximal, inflow end of a stent graft device as a whole, a distal, outflow end of the stent graft device as a whole, at least one stent (see below) having a proximal stent end, a distal stent end and a plurality of eyelets (18) connected to each other by a plurality of filaments. The distal stent end of the at least one stent providing said distal, outflow end of the stent graft device as a whole through which blood flowing through the stent graft can exit the stent graft. The stent graft having a cover (13) extending over the stent from one end to the other. However, Douglas does not disclose a graft made out of a submucosa tissue, a graft having a first portion extending along the inside surface of the stent and a second portion folded back over the proximal stent end of the stent and then along an outside surface of the stent wherein the first and second ends are secured to each other at the distal stent end of the stent.

WO 98/25544 teaches a graft having a seam and made out of a submucosa tissue covering the inside and outside section of the stent by folding back a second portion of the sleeve for the purpose of providing a non-thrombogenic surface that induces the formation of a new endothelium and inhibits restenosis of a vessel after expansion of the vessel (see page 5, lines 31-32 and page 6, lines 1-2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the graft of the Gianturco reference with the graft of the WO 98/25544 reference in order to induce the formation of a new endothelium and inhibits restenosis of a vessel after expansion of the vessel. However, WO 98/25544 does not disclose first and second ends are secured to each other at the distal stent end of the stent.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to modify the location (the middle section) of the connection of the two ends of the collagen cover of the WO 98/25544 reference by placing the connection at the distal stent end of the stent because Applicant has not disclosed that by having a connection at the distal stent end of the stent provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the connection made in the middle of the stent because it would perform equally as well.

Therefore, it would have been an obvious matter of design choice to modify the WO 98/25544 reference to obtain the invention as specified in all the independent claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J. Stewart whose telephone number is 571-272-4760. The examiner can normally be reached on Monday-Friday 7:00AM-5:30PM(1 Friday B-week off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Isabella can be reached on 571-272-4749. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications and (571) 273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-4760.

/Alvin J Stewart/
Primary Examiner, Art Unit 3774

09/16/08